

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No.: 13-O-15781-DFM
	)	
CHARLES DENTON SNEATHERN,	)	
	)	DECISION AND ORDER OF
Member No. 54964,	)	INVOLUNTARY INACTIVE
	)	ENROLLMENT
<u>A Member of the State Bar.</u>	)	

**Introduction**<sup>1</sup>

Respondent Charles Denton Sneathern was charged, in two matters, with: (1) not depositing or maintaining client funds in the trust account; (2) not paying client funds promptly; (3) misappropriating client funds; (4) not responding promptly to client inquiries; and (4) not updating his State Bar membership records address. He did not participate, either in person or through counsel, and his default was entered. The Office of the Chief Trial Counsel (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.<sup>2</sup>

Rule 5.85 provides the procedure to follow when an attorney fails to participate in a disciplinary proceeding after receiving adequate notice and opportunity. The rule provides that, if an attorney's default is entered for failing to respond to the notice of disciplinary charges

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<sup>1</sup> Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

<sup>2</sup> The rules in effect prior to July 1, 2014 apply. Accordingly, unless otherwise indicated, all references to rules are to that source.

(NDC) and the attorney fails to have the default set aside or vacated within 180 days, the State Bar will file a petition asking the court to recommend the attorney's disbarment.<sup>3</sup>

In the instant case, the court concludes that the requirements of rule 5.85 have been satisfied and, therefore, grants the petition and recommends that Respondent be disbarred from the practice of law.

## **FINDINGS AND CONCLUSIONS**

### **Jurisdiction**

Respondent was admitted to practice law in this state on December 19, 1972, and has been a member since then.

### **Procedural Requirements Have Been Satisfied**

On April 30, 2014, the State Bar properly served the NDC on Respondent by certified mail, return receipt requested, to his membership records address. The NDC notified Respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The NDC was returned as undeliverable by the United States Postal Service.

Respondent did not file a response to the NDC by May 27, 2014. Between May 19 and July 9, 2014, the State Bar made unsuccessful efforts to locate and contact Respondent, including online searches; emailing the NDC to Respondent's membership records email address; and placing telephone calls to his membership records and alternate telephone numbers. The email was returned as undeliverable and the telephone numbers were not in service.

On June 16, 2014, the State Bar properly filed and served a motion for entry of default on Respondent by certified mail, return receipt requested, to his membership records address. The

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<sup>3</sup> If the court determines that any due process requirements are not satisfied, including adequate notice to the attorney, it must deny the petition for disbarment and take other appropriate action to ensure that the matter is promptly resolved. (Rule 5.85(E)(2).)

motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the State Bar deputy trial counsel declaring the additional steps taken to provide notice to Respondent (rule 5.80). The motion also notified Respondent that, if he did not timely move to set aside his default, the court would recommend his disbarment. Respondent did not file a response to the motion, and his default was entered on July 11, 2014. The order entering the default was properly served on Respondent at his membership records address by certified mail, return receipt requested. The court also ordered Respondent's involuntary inactive enrollment as a member of the State Bar under section 6007, subdivision (e), effective three days after service of the order. He has remained inactively enrolled since that time.

Respondent then did not seek to have his default set aside or vacated. (Rule 5.83(C)(1) [attorney has 180 days to file motion to set aside default].) On January 27, 2015, the State Bar properly filed and served the petition for disbarment on Respondent by certified mail, return receipt requested, to his membership records address. As required by rule 5.85(A), the State Bar reported in the petition that (1) Respondent had not contacted the State Bar since the entry of default; (2) there are no disciplinary matters pending against Respondent; (3) Respondent has one record of prior discipline; and (4) the Client Security Fund has not made any payments resulting from Respondent's conduct, although there is one matter pending. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default. The case was submitted for decision on February 27, 2015.

### **Prior Record of Discipline**

Respondent has one prior record of discipline. Pursuant to a Supreme Court order filed on March 1, 2006, Respondent was suspended for two years and until he complied with then standard 1.4(c)(ii) of the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct, the execution of which was stayed, and he was placed on

probation for one year, on conditions including that he be actually suspended for 60 days.

Respondent stipulated in that procedure that he willfully violated rule 4–100(A) of the State Bar Rules of Professional Conduct (failure to maintain client funds in trust account).

### **The Admitted Factual Allegations Warrant the Imposition of Discipline**

Upon entry of a respondent’s default, the factual allegations in the NDC are deemed admitted and no further proof is required to establish the truth of such facts. (Rule 5.82.) As set forth below in greater detail, the factual allegations in the NDC support the conclusion that Respondent is culpable as charged and, therefore, violated a statute, rule or court order that would warrant the imposition of discipline. (Rule 5.85(E)(1)(d).)

Counts 1 and 2 – Respondent willfully violated rule 4-100(A) (failure to maintain client funds in trust account) by not depositing or maintaining in a client trust account \$9,833.57 and \$16,133.18 received on March 8, 2013, for the benefit of his clients Leticia Vaca and Clara Vaca, respectively.

Counts 3 and 4 – Respondent willfully violated rule 4-100(B)(4) (not promptly paying or delivering client funds) by not paying or delivering any part of the funds he received for Leticia and Clara Vaca on March 8, 2013, to their medical provider pursuant to liens.

Counts 5 and 6 – Respondent willfully violated section 6106 (committing an act of moral turpitude) by misappropriating \$2,500.00 of Leticia Vaca’s funds and \$2,000.00 of Clara Vaca’s funds which were to be paid to Dr. Oliva on behalf of each of them pursuant to a lien against their respective recoveries.

Count 7 – Respondent willfully violated section 6068, subdivision (m) (not responding promptly to reasonable client inquiries) by not responding promptly to approximately 30 telephonic status inquiries made by the Vacas between August and September 2013, and that Respondent received in a matter in which Respondent had agreed to provide legal services.

Count 8 – Respondent willfully violated section 6068, subdivision (j) (not updating membership records address) by not notifying the State Bar within 30 days of a change of his work address.

### **Disbarment is Recommended**

Based on the above, the court concludes that the requirements of rule 5.85(E) have been satisfied, and Respondent's disbarment is recommended. In particular:

- (1) the NDC was properly served on Respondent under rule 5.25;
- (2) reasonable diligence was used to notify Respondent of the proceedings prior to the entry of his default;
- (3) the default was properly entered under rule 5.80; and
- (4) the factual allegations in the NDC, deemed admitted by the entry of the default, support a finding that Respondent violated a statute, rule or court order that would warrant the imposition of discipline.

Despite adequate notice and opportunity, Respondent failed to participate in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court recommends disbarment.

### **RECOMMENDATION**

#### **Disbarment**

The court recommends that respondent **Charles Denton Sneathern**, State Bar number 54964, be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

#### **Restitution**

It is also recommended that Respondent make restitution to the following clients:

1. To Leticia Vaca in the amount of \$ 2,500.00, plus 10 percent interest per year from March 8, 2013; and

2. To Clara Vaca in the amount of \$ 2,000.00, plus 10 percent interest per year from March 8, 2013.

Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d)

**California Rules of Court, Rule 9.20**

The court also recommends that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding.

**Costs**

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

**ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that **Charles Denton Sneathern**, State Bar number 54964, be involuntarily enrolled as an inactive member of the State Bar of California, effective three calendar days after the service of this decision and order. (Rule 5.111(D).)

Dated: May \_\_\_\_, 2015

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DONALD F. MILES  
Judge of the State Bar Court